THE ALL ENGLAND LAW REPORTS

Tables and Index 1979

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All England Law Reports

TABLES AND INDEX 1979

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Introduction

The Tables and Index 1979 covers all the cases reported in the three 1979 volumes of the All England Law Reports. It is a continuation of the Consolidated Tables and Index 1936–1976. It follows the same pattern as the consolidated index and reference should therefore be made to the Introductions to volumes 1 and 2 of the consolidated index for information concerning the use of the 1979 index.

The 1979 index is the third of a series of annual indexes to the All England series which will be published and distributed to all subscribers. The annual indexes replace the separate indexes which were included in each volume of the reports up to the end of 1976. In order to provide subscribers with a continuing up-to-date index to the reports the annual indexes will be supplemented during the course of the year by separate cumulative tables and indexes (the 'Current Cumulative Tables and Index'). Issues of the current index will be published at regular intervals during the year and distributed to all subscribers. They will be issued on a cumulative basis and will cover all cases reported in the reports from the beginning of the year up to the date of issue. Each new issue will supersede the previous issue which should then be destroyed. A reader searching for a case reported in the All England series will therefore need to refer not only to the annual indexes but also, if the report is very recent, to the current index. Such a search will cover all the reports published since 1976 including those published in the weekly parts of the current year except for a small number, not exceeding eight, of the most recently published parts.

Readers who wish to have a comprehensive index to the whole series, should purchase the Consolidated Tables and Index 1936–1976 and subscribe to the annual cumulative indexes published from 1978 onwards and which, when published, will replace the separate annual indexes for 1977 onwards on a cumulative basis.

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Reversed [1947] **1** 168, CA
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Explained, NWL Ltd v Woods [1979] **3** 614
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Applied, Calvin v Carr [1979] **2** 440
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Affirmed [1971] **2** 881, CA
Dictum applied, Meade v London Borough of Haringey [1979] **2** 1016
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Reversed [1979] **1** 501, CA
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Dictum applied, Wheatley v London Borough of Waltham Forest [1979] **2** 289
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Applied, Debtor, A (No 13 of 1964), Re, ex parte Official Receiver v The debtor [1979] **3** 15
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Affirmed [1979] **1** 421, HL
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Distinguished, Services Europe Atlantique Sud (SEAS) v Stockholms Rederiaktiebolag SVEA [1979] **1** 421
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Dictum applied, Pascoe v Turner [1979] **2** 945
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Affirmed [1950] **2** 1137, HL
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Dictum applied, Re Attorney-General's References (Nos 1 and 2 of 1979) [1979] **3** 143
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Considered, Lloyds Bank Ltd v Secretary of State for Employment [1979] **2** 573
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Dictum applied, Tyrer v Smart (Inspector of Taxes) [1979] **1** 321
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Reversed [1977] **2** 41, CA
Approved, Services Europe Atlantique Sud (SEAS) v Stockholms Rederiaktiebolag SVEA [1979] **1** 421
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Affirmed in part [1979] **1** 307, HL
Dictum applied, British Anzani (Felixstowe) Ltd v International Marine Management (UK) Ltd [1979] **2** 1063
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Reversed in part [1978] **2** 1079, CA
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Affirmed [1979] **3** 445, CA
Fraser v Evans [1969] **1** 8, CA
Dictum applied, Malone v Comr of Police of the Metropolis (No 2) [1979] **2** 620
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Affirmed [1979] **1** 51, CA
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Followed, Myerson v Martin [1979] **3** 667
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Reversed [1979] **2** 1163, CA
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Reversed [1967] **2** 173, CA
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Applied, Procedure Direction [1979] **2** 359
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Affirmed [1969] **3** 1700, CA
Distinguished, Malone v Comr of Police of the Metropolis [1979] **1** 256
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Affirmed [1938] **2** 394, CA
Not followed, Ross v Caunters (a firm) [1979] **3** 580
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Affirmed [1968] **3** 785, HL
Distinguished, Re Barlow's Will Trusts [1979] **1** 296
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Applied, Post Office v Mears Construction Ltd [1979] **2** 813
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Considered, Rowe v Rowe [1979] **2** 1123
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Distinguished, Re a debtor (No 2 of 1977), ex parte the debtor v Goacher [1979] **1** 870
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Reversed [1979] **1** 286, HL
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Bankruptcy—Debtor abroad. *See* **Bankruptcy** (Practice—Evidence—Debtor abroad—Cross-examination on affidavits).

AGENT PROVOCATEUR
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Exclusion—
Discretion. *See* **Criminal evidence** (Exclusion of evidence—Discretion—Extent of discretion—Evidence of commission of crime obtained through police officer and informer acting as agents provocateurs).

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AGREEMENT (cont)
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AGRICULTURAL HOLDING
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Death of tenant—
Eligibility of survivor of tenant for grant of new tenancy—Date at which eligibility to be determined—Tenant of agricultural holding dying—Son not eligible as survivor because of his interest in other agricultural land—Son disposing of his interest and then applying for new tenancy—Whether a survivor of tenant required to be eligible at date of tenant's death—Whether a survivor who later acquires eligibility entitled to apply for new tenancy—Agriculture (Miscellaneous Provisions) Act 1976, s 18(2). **Jackson v Hall** [1979] **1** 449, CA.

AGRICULTURE
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Licence to occupy farm cottage. *See* **Licence** (Licence to occupy premises—Agricultural worker).

AID
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AIR TRAFFIC
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Capital allowances. *See* **Income tax** (Capital allowances).

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Charitable trust. *See* **Charity** (Charitable trust—Alteration of beneficial interests).
University or college trusts. *See* **University** (Trust—Scheme for administering university or college trusts—Alteration of beneficial interests).
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Structural alteration—
Improvement—Reduction in rateable value—Leasehold enfranchisement. *See* **Landlord and tenant** (Leasehold enfranchisement—House—Rateable value—Reduction—Improvement by execution of works amounting to structural alteration, extension or addition).

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ANNUAL PAYMENT
Capital gains tax—
Exemption—
Disposal of right to annual payments due under personal covenant not secured on property. *See* **Capital gains tax** (Exemptions and reliefs—Disposal of right to annual payments due under personal covenant not secured on property).

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Costs—
Unassisted party. *See* **Legal aid** (Unassisted person's costs out of legal aid fund).
Criminal appeal—
Generally. *See* **Criminal law** (Appeal).
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Family Division. *See* **Family Division** (Appeal).
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Leave to appeal. *See* **House of Lords** (Leave to appeal).
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Generally. *See* **Income tax** (Appeal).
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House of Lords. *See* **House of Lords** (Leave to appeal).
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Tribunal. *See* **Tribunal** (Appeal on point of law).
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Opinion of New Zealand Court of Appeal for assistance of Governor-General—
No right of appeal to Privy Council. *See* **Privy Council** (Jurisdiction—Leave to appeal—New Zealand—Govenor-General's exercise of prerogative of mercy—Opinion of Court of Appeal).
Privy Council—
Generally. *See* **Privy Council**.
Review of exercise of discretion—
Duty of appellate court—
Infant—Wardship proceedings—Judge hearing applicant and taking all relevant factors into consideration—Court of Appeal taking hostile attitude towards applicant—Whether Court of Appeal justified in varying judge's order. **B v W (wardship :appeal)** [1979] **3** 83, HL

APPEAL (cont)
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Extradition. *See* **Extradition** (Habeas corpus).
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Apportionment of liability. *See* **Negligence** (Contributory negligence—Apportionment of liability).

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Agreement incapable of being performed. *See* Stay of court proceedings—Exception where arbitration agreement incapable of being performed, *post*.
Arbitration clause—
Charterparty—
Incorporation in bill of lading. *See* **Shipping** (Bill of lading—Incorporation of terms of charterparty—Arbitration clause).
Arbitrator—
Definition—
Government supply contract incorporating Fair Wages Resolution of House of Commons—Contract providing that any question arising whether Fair Wages Resolution was being observed to be referred by Minister to independent tribunal for decision—Minister referring question to Central Arbitration Committee—One party to reference not a party to contract—Whether Central Arbitration Committee acting as arbitrator in deciding question. **Imperial Metal Industries (Kynoch) Ltd v Amalgamated Union of Engineering Workers** [1979] **1** 847, CA.
Discretion—
Conditions on stating a case. *See* Special case—Conditions on stating a case, *post*.
Award—
Foreign currency—
Damages—Breach of contract—Currency in which damages to be awarded—Charterparty governed by English law—Currency of contract US dollars—Cargo arriving at Brazilian port of discharge in damaged condition due to unseaworthiness of ship—French charterers purchasing Brazilian cruzeiros with French francs to settle claims by cargo receivers—Whether charterers' loss incurred in French francs or Brazilian cruzieros—Whether damages to be awarded in currency in which loss incurred or currency which reflected charters' actual loss. **Services Europe Atlantique Sud (SEAS) v Stockholms Rederiaktiebolag SVEA** [1979] **1** 421, HL.
Setting aside award—
Jurisdiction—Jurisdiction to make award—Arbitration agreement providing for appointment of three arbitrators—Agreement having effect as if it provided for appointment of umpire in place of third arbitrator—Two arbitrators appointed—Arbitrators not appointing umpire—Arbitrators proceeding to award—Whether arbitrators having jurisdiction to make award without appointing umpire—Arbitration Act 1950,ss 8(1)(2),9(1). **Termarea SRL v Rederiaktiebolaget Sally** [1979] **2** 989, QBD.
Foreign currency—
Award. *See* Award—Foreign currency, *ante*.
Injunction—
Interlocutory injunction—
Danger that defendant may transfer assets out of jurisdiction. *See* **Injunction** (Interlocutory—Danger that defendant may transfer assets out of jurisdiction—Arbitration agreement).
Mareva injunction. *See* **Injunction** (Interlocutory—Danger that defendant may transfer assets out of jurisdiction—Arbitration agreement).
Practice—
Want of prosecution—
Dismissal of claim—Power of arbitrator to dismiss claim for want of prosecution—Whether arbitrator having same power as courts in litigation to dismiss claim for want of prosecution. **Bremer Vulkan Schiffbau Und Maschinenfabrik v South India Shipping Corpn** [1979] **3** 194, QBD.
Injunction restraining arbitration—Jurisdiction of courts to grant injunction—Conduct of claimant justifying dismissal of claim for want of prosecution constituting repudiatory breach of arbitration agreement entitling respondent to elect to treat agreement as ended—Respondent entitled to apply to court for injunction enjoining claimant from proceeding with arbitration—Whether court entitled to grant injunction on ground agreement to refer being impeached. **Bremer Vulkan Schiffbau Und Maschinenfabrik v South India Shipping Corpn** [1979] **3** 194, QBD.

ARBITRATION (cont)
Special case—
Conditions on stating a case—
Discretion of arbitrator to state special case for High Court—Direction by court that special case be stated—Discretion of arbitrator and court to make order as to costs 'or otherwise'—Arbitrators making award on condition that charterers pay amount which was indisputably due—Whether arbitrators or court having power to impose condition on stating of case—Arbitration Act 1950, ss 21(1), 28. **Antco Shipping Ltd v Seabridge Shipping Ltd** [1979] **3** 186, CA.
Stay of court proceedings—
Admiralty—
Action in rem—Release of arrested ship. *See* **Admiralty** (Jurisdiction—Action in rem—Arrest of ship—Stay of proceedings—Arbitration agreement).
Exception where arbitration agreement incapable of being performed—
Party alleged to be unable to satisfy award if award made against him—Whether arbitration agreement 'incapable of being performed'—Arbitration Act 1975, s 1(1). **The Rena K** [1979] **1** 397, QBD.
Umpire—
Appointment—
Award made without appointment of umpire. *See* Award—Setting aside award—Jurisdiction—Jurisdiction to make award—Arbitration agreement providing for appointment of three arbitrators—Agreement having effect as if it provided for appointment of umpire in place of third arbitrator—Two arbitrators appointed—Arbitrators not appointing umpire, *ante*.

ARREST
Validity of arrest—
Arrest by constable who had become a trespasser—
Arrest for failure to provide specimen of breath—Accident owing to presence of motor vehicle on road.*See* **Road traffic** (Breath test—Accident owing to presence of motor vehicle on road—Arrest—Arrest for failure to provide specimen of breath—Validity—Constable a trespasser at time of request for specimen of breath).

ARTICULATED VEHICLE
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Capital gains tax. *See* **Capital gains tax** (Disposal of assets).

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Compulsory purchase—
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Generally. *See* **Damages** (Assessment).
Income tax. *See* **Income tax** (Assessment).
Value added tax—
Assessment in default of proper returns by taxpayer. *See* **Value added tax** (Assessment in default of proper returns by taxpayer).

ASSETS
Disposal. *See* **Capital gains tax** (Disposal of assets).
Friendly society—
Distribution of surplus assets on dissolution. *See* **Friendly society** (Dissolution—Surplus assets—Distribution).
Mareva injunction. *See* **Injunction** (Interlocutory—Danger that defendant may transfer assets out of jurisdiction).
Transfer of assets abroad—
Income tax avoidance. *See* **Income tax** (Avoidance—Transfer of assets abroad).
Interlocutory injunction. *See* **Injunction** (Interlocutory—Danger that defendant may transfer assets out of jurisdiction).

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Lease—
Covenant against assignment—
Consent of landlord. *See* **landlord and tenant** (Covenant against assignment without consent).

ASSOCIATION FOOTBALL
Charity—
Promotion and encouragement of sport—
Trust to promote association football in schools and universities. *See* **Charity** (Education—Educational purposes—Sport—Promotion and encouragement of sport—Trust to promote, encourage and provide facilities for pupils of schools and universities to play association football and other games).

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Protection of bona fide transactions made without notice. *See* **Bankruptcy** (Effect on antecedent transactions—Protection of bona fide transactions made without notice—Attachment of earnings order made against judgment debtor).
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AUTOMATIC DISCHARGE
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AVOIDANCE
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Disposition with intent to defraud creditors. *See* **Company** (Compulsory winding-up—Avoidance of disposition made with intent to defraud creditors).
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Generally. *See* **Arbitration** (Award).

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BAD FAITH
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Vendor's inability to show good title—Inability not attributable to vendor's bad faith. *See* **Sale of land** (Damages for breach of contract—Vendor's inability to show good title—Damages limited to costs of investigating title—Limitation on damages if vendor's inability to show good title not attributable to his default—Bad faith constituting default).

BAGGAGE
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Damage to baggage. *See* **Carriage by air** (Damage to baggage or cargo).

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BANKRUPTCY
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Appeal pending against refusal to set aside bankruptcy notice—
Receiving order made following presentation of petition based on failure to comply with bankruptcy notice—Jurisdiction to make order. *See* Receiving order—Jurisdiction to make order—Appeal pending against refusal to set aside bankruptcy notice on which petition based, *post*.
Automatic discharge. *See* Discharge—Automatic discharge, *post*.
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Setting aside—
Appeal pending against refusal to set aside bankruptcy notice on which petition based—Jurisdiction to make receiving order while appeal pending. *See* Receiving order—Jurisdiction to make order—Appeal pending against refusal to set aside bankruptcy notice on which petition based, *post*.
Discharge—
Automatic discharge of bankrupt—
Discretion of court to order automatic discharge—Matters to be considered—When appellate court can interfere with exercise of discretion—Insolvency Act 1976, s 7(1)(2). **Re Reed (a debtor)** [1979] **2** 22, ChD.
Suspension—
Attachment of condition—Condition subsequent to discharge—Debtor discharged from bankruptcy in 1968 on condition that he continue to pay instalments to creditors-1976 statute providing for absolute discharge of bankrupt in certain circumstances—Person adjudicated bankrupt more than five years before 1st October 1977 and not 'discharged' by that date to be in same position as if he had been granted absolute discharge on 1st October 1977—Full sum not paid by bankrupt to creditors by 1st October 1977—Whether bankrupt already discharged by 1st October 1977—Whether conditional order including order where conditions subsequent imposed—Whether bankrupt still liable to pay—Insolvency Act 1976, s 7(4)(5). **Re a debtor (No 13 of 1964), ex parte Official Receiver v The debtor** [1979] **3** 15, ChD.
Effect on antecedent transactions—
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Attachment of earnings order made against judgment debtor—Money deducted by employer from judgment debtor's earnings and paid into court—Money not distributed to creditors by court—Receiving order made against judgment debtor—Whether attachment of earnings order constituting assignment to creditors of money deducted by employer—Whether payment into court constituting protected transaction—Bankruptcy Act 1914, s 45—Attachment of Earnings Act 1971, s 13(1). **Re Green (a bankrupt), ex parte Official Receiver v Cutting** [1979] **1** 832, ChD.
Evidence—
Practice. *See* Practice—Evidence, *post*.

BANKRUPTCY (cont)
Execution—
Effect on jurisdiction to make receiving order—
Bankruptcy notice based on judgment debt—Execution levied by judgment creditor. *See* Receiving order—Jurisdiction to make order—Bankruptcy notice based on judgment debt of £1,418—Bankruptcy petition filed—Execution levied by judgment creditor, *post*.

Practice—
Evidence—
Debtor abroad—Cross-examination on affidavits—Debtor applying to be cross-examined abroad—Petitioning creditor seeking exclusion of affidavits if debtor not attending court for cross-examination—Whether application for cross-examination abroad should be dismissed—Whether question of admissibility of affidavits if debtor failed to attend court for cross-examination should be postponed until trial of petition—RSC Ord 38, r 2(3). **Re a debtor (No 2283 of 1976), ex parte the debtor v Hill Samuel & Co Ltd** [1979] 1 434, CA.

Proof—
Set-off—
Mutual credits, mutual debts or other mutual dealings—Claims arising otherwise than out of contract—Statutory debts due to Crown—Company in compulsory liquidation—Crown by mistake making payment to liquidator of company in respect of excess input value added tax without setting it off against debts due from company to Crown—Whether Crown entitled to set off statutory debts owed to it against input tax—Whether Crown's right of set-off ceased to apply when payment inadvertently made to liquidator—Bankruptcy Act 1914, s 31. **Re Cushla Ltd** [1979] 3 415, ChD.

Receiving order—
Jurisdiction to make order—
Appeal pending against refusal to set aside bankruptcy notice on which petition based—Application to set aside notice heard and determined by registrar—Whether application 'heard' if appeal against registrar's decision pending—Whether even though application 'heard' court will stand over application for receiving order where appeal against registrar's decision bona fide and pursued with diligence—Bankruptcy Rules 1952 (SI 1952 No 2113), r 179. **Re a debtor (No 44 of 1978), ex parte the debtor v Chantry Mount and Hawthorns Ltd** [1979] 3 265, ChD.

Bankruptcy notice based on judgment debt of £1,418—Bankruptcy petition filed—Execution levied by judgment creditor—£1,400 paid by judgment debtor to sheriff in respect of money owed to two creditors—£1,329 appropriated to judgment creditor—Debtor contending that court could not make order because judgment debt reduced below £200—Whether payment by judgment debtor to sheriff satisfying judgment creditor's claim—Bankruptcy Act 1914, ss 4(1)(*a*), 41. **Re a debtor (No 2 of 1977), ex parte the debtor v Goacher** [1979] 1 870, ChD.

Set-off—
Proof. *See* Proof—Set-off, *ante*.

BENEFICIARY
Interest in possession—
Settlement—
Capital transfer tax. *See* **Capital transfer tax** (Settlement—Interest in possession).

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BENEFIT TO COMMUNITY
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*See Will **(Gift)**.

BERMUDA
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Construction of Constitution—
Protection of freedom of movement—Person deemed to belong to Bermuda—Child—Illegitimate child—Child of person possessing Bermudan status deemed to 'belong to Bermuda'—Whether 'child' including illegitimate child—Constitution of Bermuda (SI 1968 No 182, Sch 2), s 11(5)(*d*). **Minister of Home Affairs v Fisher** [1979] 3 21, PC.

BILL OF EXCHANGE
Cheque—
Conversion—
Right to immediate possession—Factoring agreement—Cheques payable to company to be handed over to plaintiffs. *See* **Conversion** (Possession—Right to immediate possession—Factoring agreement—Debts assigned by company to plaintiffs—Cheques made payable to company to be held in trust for plaintiffs and handed over immediately to plaintiffs).

BILL OF EXCHANGE (cont)
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Indorsement on behalf of company—
Indorser also acceptor of bill—Signature as acceptor in same form as signature as indorser—Signature followed by words 'for and on behalf of company'—Whether indorsement in personal or representative capacity—Whether evidence admissible to show parties' intended indorsement to be in personal capacity—Bills of Exchange Act 1882, s 26(1). **Rolfe Lubell & Co (a firm) v Keith** [1979] **1** 860, QBD.

BILL OF LADING
C and f contract. *See* **Sale of goods** (C and f contract).
Generally. *See* **Shipping** (Bill of lading).

BIRTH
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BLASPHEMY
Crime. *See* **Criminal law** (Blasphemy).

BOAT
Value added tax—
Higher rate. *See* **Value added tax** (Higher rate—Boats and aircraft).

BONA VACANTIA
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Surplus assets—
Distribution of surplus assets on dissolution. *See* **Friendly society** (Dissolution—Surplus assets—Distribution—Whether surplus assets should pass to members or to Crown as bona vacantia).

BONUS
Emoluments from office—
Income tax. *See* **Income tax** (Emoluments from office or employment—Payment—Bonus).

BREACH OF CONTRACT
Anticipatory breach. *See* **Contract** (Repudiation—Anticipatory breach).
Damages—
Sale of land. *See* **Sale of land** (Damages for breach of contract).
Sale of land. *See* **Sale of land** (Breach of contract).

BREACH OF COVENANT
Lease—
Persons to be served with notice. *See* **Landlord and tenant** (Forfeiture of lease—Notice of breach—Persons to be served with notice).

BREACH OF STATUTORY DUTY
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Provision of schools for full-time education. *See* **Education** (Statutory duty to make schools available for full-time education—Failure to comply with duty).

BREATH TEST
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BRITISH TRANSPORT COMMISSION
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Compensation to employee—
Worsening of employee's position—Right to compensation on worsening of position—Basis on which worsening of position to be assessed—Whether by comparison with employee's position with new employer since transfer or with his position if he had not been transferred—British Transport (Compensation to Employees) Regulations 1970 (S1 1970 No 187), reg 13(1). **Tuck v National Freight Corpn** [1979] **1** 215, HL.

BROADCASTING
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BUILDING
Building works—
Value added tax—
Zero-rating. *See* **Value added tax** (Zero-rating—Building works).
Covenant to repair. *See* **Landlord and tenant** (Repair).
Damage—
Repairs—
Assessment of damages. *See* **Damages** (Assessment of damages—Repairs to building).
Measure of damages. *See* **Damages** (Measure of damages—Repairs to building).
Defect—
Liability in negligence. *See* **Negligence** (Defective premises).
Inherent defect—
Repair—
Covenant to repair. *See* **Landlord and tenant** (Repair—Construction of covenant—Covenant 'to repair'—Covenant to repay landlord cost of repairs—Inherent defect).
Removal—
Town and country planning—
Condition attached to permission for temporary change of use. *See* **Town and country planning** (Permission for development—Condition—Change of use—Condition attached to permission for change of use—Permission for temporary change of use of existing building—Condition attached that building be removed at end of period of permission).

BUILDING (cont)
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Covenant to repair. *See* **Landlord and tenant** (Repair)
Repairs—
Assessment of damages. *See* **Damages** (Assessment of damages—Repairs to building).
Measure of damages. *See* **Damages** (Measure of damages—Repairs to building).
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Use of land—
Town and country planning. *See* **Town and country planning** (Development—Use classes—Repository).

BUILDING SOCIETY
Advances—
Security on which advances may be made—
Prohibition of advances on security of property subject to prior charge—Advance in contravention of prohibition—Charge securing advance registered—Whether mortgagor entitled to order vacating registration—Whether illegality of advance and security rendering security void—Whether despite illegality of transaction building society entitled to enforce security—Building Societies Act 1962, s 32(1). **Nash v Halifax Building Society** [1979] **2** 19, ChD.

BURGLARY
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BUSINESS
Premises—
Occupied for business purposes. *See* **Landlord and tenant** (Business premises—Occupied for business purposes).
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Interim rent. *See* **Landlord and tenant** (Rent—Business premises—Interim rent).

C AND F CONTRACT
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Consent to broadcasting of election items. *See* **Elections** (Parliamentary—Broadcasting election items—Candidate's consent to broadcast).

CAPITAL
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Income tax—
Computation of profits. *See* **Income tax** (Deduction in computing profits—Capital or revenue expenditure).

CAPITAL ALLOWANCES
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CAPITAL GAINS TAX
Disposal of assets—
Assets—
Employer's rights under service agreement with employee—Payment to company by employee to secure release from service agreement—Whether release of company's rights under service agreement a disposal of 'assets'—Whether company assessable to corporation tax in respect of payment by employee—Finance Act 1965, s 22(1)(3)(*c*). **O'Brien (Inspector of Taxes) v Benson's Hosiery (Holdings) Ltd** [1979] **3** 652, HL.
Company amalgamation—
Exchange of shares or debentures—Company gaining control of other company—Control—Acquisition by issuing company of majority of shares in other company—Acquisition part of scheme whereby shares acquired were to be immediately disposed of to third party—Majority shareholders of other company becoming shareholders of issuing company—Whether issuing company having gained 'control' of other company—Finance Act 1965, Sch 7, paras 4, 6. **Floor v Davis (Inspector of Taxes)** [1979] **2** 677, HL.
Debt—
Debt on a security—Security—Need for document or certificate issued by debtor—Loan by taxpayer company to subsidiary—Loan not secured on assets of subsidiary—Taxpayer company provided with statutory declaration by director of subsidiary recording its acceptance of loan offer—Whether loan a 'debt on a security'—Finance Act 1965, Sch 7, paras 5(3)(*b*), 11(1). **W T Ramsay Ltd v Inland Revenue Comrs** [1979] **3** 213, CA.
Person having control of company and exercising control so that value passes out of his shares—
Person having control—Exercise of control—Taxpayer and two relations holding preferred shares in newly formed company and controlling company—Rights issue of ordinary shares—Taxpayer and relations failing to take up rights issue—Fourth preferred shareholder acquiring in consequence all issued ordinary shares and with them right to six-sevenths of company's surplus assets on liquidation—Resolution passed that company should be voluntarily wound up—Taxpayer and one of his two relations not voting on resolution—Whether 'person having control' including more than one person—Whether resolution for winding-up an exercise of control—Finance Act 1965, Sch 7, para 15(2). **Floor v Davis (Inspector of Taxes)** [1979] **2** 677, HL.

CAPITAL GAINS TAX (cont)
Exemptions and reliefs—
Disposal of right to annual payments due under personal covenant not secured on property—
Due under a covenant—Obligations to make payments created by undertaking embodied in document executed under seal—Obligations enforceable as contract debt apart from agreement under seal—Whether payments 'due under a covenant'—Finance Act 1965, Sch 7, para 12(*c*) **Rank Xerox Ltd v Lane (Inspector of Taxes)** [1979] **3** 657, HL.
Settlement—
Beneficiary becoming absolutely entitled to settled property—
Tax avoidance scheme—Related transactions—Trustees exercising power to appoint trust property to beneficiary contingently on him surviving period of three days from date of appointment—On same date beneficiary assigning to foreign company for consideration his contingent interest in property—By contract made on same date beneficiary agreeing to purchase property from foreign company—Beneficiary surviving three day period and scheme completed by transfer of property to him by foreign company—Whether beneficiary a beneficiary who became absolutely entitled to property as against trustee on completion of scheme—Whether scheme an arrangement under which beneficiary became absolutely entitled to property—Whether beneficiary chargeable to tax on gain arising from deemed disposal of property—Income Tax Act 1952, s 411(2)—Finance Act 1965, s 42(2)(7). **Chinn v Collins (Inspector of Taxes)** [1979] **2** 529, CA.
Trustee—
Assets held by trustee—
Beneficiary becoming absolutely entitled. *See* Settlement—Beneficiary becoming absolutely entitled to settled property, *ante*.

CAPITAL TRANSFER TAX
Settlement—
Interest in possession—
Beneficiary entitled under settlement to income of property subject to trustees' power to accumulate—Whether beneficiary's interest a present interest or an interest in reversion or remainder—Whether beneficiary's interest an interest in possession—Finance Act 1975, Sch 5, para 6(2). **Pearson v Inland Revenue Comrs** [1979] **3** 7, CA.

CARE
Child—
Local authority. *See* **Child** (Care—Local authority).

CARGO
Carriage by air—
Damage to cargo. *See* **Carriage by air** (Damage to baggage or cargo).
Contamination—
Payment of freight. *See* **Shipping** (Freight-Claim for freight—Freight payable on delivery—Cargo contaminated on delivery).
Freight. *See* **Shipping** (Freight).
Salvage—
Storage expenses. *See* **Shipping** (Salvage—Cargo—Storage expenses).

CARRIAGE BY AIR
Damage to baggage or cargo—
Complaint to carrier within prescribed period after discovery of damage—
Damage—Loss of articles from baggage—Whether loss of articles constituting 'damage'—Whether complaint to be made within prescribed period—Carriage by Air Act 1961, Sch 1, art 26(2)—Carriage by Air and Road Act 1979, s2. **Fothergill v Monarch Airlines Ltd** [1979] **3** 445, CA.

CARRIAGEWAY
Generally. *See* **Highway**.

CASE STATED
Special case—
Arbitration. *See* **Arbitration** (Special case).

CENTRAL HEATING SYSTEM
House—
Structural alteration—
Improvement—Reduction in rateable value—Leasehold enfranchisement. *See* **Landlord and tenant** (Leasehold enfranchisement—House—Rateable value—Reduction—Improvement by execution of works amounting to structural alteration, extension or addition—Central heating system).

CERTIFICATE
Alternative development. *See* **Compulsory purchase** (Compensation—Certificate of alternative development).
Established use—
Town and country planning. *See* **Town and country planning** (Established use—Certification).
Town and country planning—
Established use. *See* **Town and country planning** (Established use—Certification).
Trade union—
Certification as independent. *See* **Trade union** (Certification as independent trade union).

CERTIORARI
County court. *See* Jurisdiction—County court, *post*.

CERTIORARI (cont)
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Jurisdiction of Companies Court to hear summons in liquidation seeking that relief—Discretion—Exercise of discretion—Contracts made by company when unable to pay its debts but before winding-up order made—Liquidator seeking declaration that contracts void—Whether claim for relief required to be commenced by writ—Whether claim for relief arising in consequence of winding-up—Law of property Act 1925, s 172(1)—RSC Ord 5, r 2(*b*). **Re Shilena Hosiery Co Ltd** [1979] **2** 6, ChD.

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Compulsory winding-up (cont)—

Corporation tax on chargeable gains—

Priority of liquidator's fees over tax—Company compulsorily wound up—Assets sold following winding-up order—Resulting liability to corporation tax on chargeable gains—Liquidator's balance less than amount liable to corporation tax—Whether corporation tax an expense incurred in realising assets—Whether corporation tax a necessary disbursement by the liquidator—Whether corporation tax a charge or expense incurred in the winding-up—Whether corporation tax ranking in priority to costs of petition and liquidator's fees—Whether court having discretion to order payment of liquidator's fees before payment of tax—Companies Act 1948, s 267—Companies (Winding-up) Rules 1949 (SI 1949 No 330), r 195(1). **Re Mesco Properties Ltd** [1979] **1** 302, ChD.

Examination of officers of company etc—

Order—Application for order when litigation already commenced by liquidator or in contemplation—Liquidator contemplating proceedings against bank to avoid charges executed by company when insolvent—Liquidator sending papers to counsel to settle proceedings—Counsel advising liquidator that there was insufficient information to bring proceedings—Liquidator applying for order to examine bank officials and for production of documents in their custody—Liquidator not having reached firm decision to litigate before applying for order—Whether potential oppressiveness of order outweighing public interest in effective completion of liquidation—Whether availability of alternative sources of information ground for discharging order—Companies Act 1948, s 268. **Re Castle New Homes Ltd** [1979] **2** 775, ChD.

Examination of officer of company etc—

Order—Circumstances in which order should be refused—Matters to be considered—Possibility of proceedings by company against proposed examinee—Purpose of examination to discover whether company had valid claim to recover money for benefit of creditors—Whether order should be granted—Companies Act 1948, s 268. **Re Spiraflite Ltd** [1979] **2** 766, ChD.

Petition by creditor—

Creditor belonging to same group of companies—Petitioning and supporting creditor members of same group of companies as company in liquidation and having majority in value of debts—Opposing creditors independent of group and greater in number but having minority in value of debts—Whether nature of petitioning and supporting creditors' debts relevant in depriving petitioning creditor of prima facie right to winding-up order—Whether number of opposing creditors to be taken into account—Companies Act 1948, s 346(2). **Re Southard & Co Ltd** [1979] **1** 582, ChD.

Petition opposed by contributory—Creditor's debt and company's inability to pay its debts proved—Contributory applying for adjournment of petition—Contributory alleging indebtedness of company due to fault of another contributory supporting petition and that continuation of company would enable it to pay its debts—Whether court should grant adjournment on application of opposing contributory—Companies Act 1948, ss. 225(1), 346(1). **Re Camburn Petroleum Products Ltd** [1979] **3** 297, ChD.

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Petition in company's name—Winding-up approved by board of directors but not by company in general meeting—Debenture conferring power to take possession of company's assets and do other acts incidental or conducive to that power—Petition presented to secure company's exemption from rates on unoccupied property—Whether board having power to present petition without approval of shareholders—Whether receiver having same power—Whether receiver having power under debenture to present petition—Companies Act 1948, Sch 1, Table A, Part 1, art 80. **Re Emmadart Ltd** [1979] **1** 599, ChD.

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Court's discretion to make winding-up order—Voluntary liquidation in progress—Petitioning and supporting creditors members of same group of companies as company in liquidation and having majority in value of debts—Opposing creditors independent of group and greater in number but having minority in value of debts—Whether nature of petitioning and supporting creditors' debts relevant in depriving petitioning creditor of prima facie right to winding-up order—Whether court having unfettered discretion or bound to accede to views of creditors having majority in value of debts—Companies Act 1948, s 346(1)(2). **Re Southard & Co Ltd** [1979] **3** 556, CA.

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Conspiracy by company's directors—Directors enabling third party to purchase company's shares with financial assistance from company—Directors' action illegal—Whether directors' knowledge of illegality of transaction to be imputed to company—Whether company a co-conspirator with directors—Whether company entitled to sue directors—Companies Act 1948, s 54(1). **Belmont Finance Corpn Ltd v Williams Furniture Ltd** [1979] **1** 118, CA.

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Priority of liquidator's fees before corporation tax. *See* Compulsory winding-up—Corporation tax—Corporation tax on chargeable gains—Priority of liquidator's fees over tax, *ante*.

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Company disposing of assets and paying other debts without taking into account pending claim against it—Whether company 'carrying on business'—Whether company's conduct showed 'intention to defraud creditor'—Companies Act 1948, s 332(1). **Re Sarflax Ltd** [1979] **1** 529, CA.
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Stay of proceedings where creditor not a secured creditor at commencement of winding-up—Action in rem against ship—Ship only asset of company in liquidation—Writ in action issued but not served before commencement of winding-up—Plaintiff applying for leave to continue action—Whether plaintiff a secured creditor—Whether mere issue of writ in rem constituting plaintiff a secured creditor—Companies Act 1948, s 231. **Re Aro Co Ltd** [1979] **1** 32, ChD.

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Development scheme—Land purchased by owner for development—Part of land compulsorily purchased before owner able to develop it—Compulsory purchase for road scheme—Owner aware of road scheme when purchasing land—Potential value of compulsorily purchased land diminished—Land compulsorily purchased capable of being developed by owner but for compulsory purchase—Whether compensation to be assessed by reference to price originally paid by owner or by reference to value land would have had if developed—Whether owner's knowledge of road scheme before he purchased land affecting valuation. **Melwood Units Pty Ltd v Comr of Main Roads** [1979] **1** 161, PC.

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COMPULSORY RESUMPTION OF LAND
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Loan by Swiss bank to English company to buy shares in Israeli company—English company obtaining advance from English bank by deposit of share certificates and execution of charge—Whether transaction illegal—Exchange Control Act 1947, ss 16, 17(2). **Swiss Bank Corpn v Lloyds Bank Ltd** [1979] **2** 853, ChD.
Evasion of restrictions or requirements imposed by Act—
Power of Treasury to require information to be furnished for detecting evasion of Act—Extent of power—Whether power exercisable after person charged and cautioned—Exchange Control Act 1947, Sch 5, Part 1, para 1(1). **A v HM Treasury** [1979] **2** 586, QBD.

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Loss of amenities—Cost of future care—Effect of inflation—Doctor—Doctor with good prospects of becoming consultant suffering irreparable brain damage following operation—Injury due to negligence of hospital—Doctor requiring total care for rest of her life—Expectation of life 37 years—Doctor only intermittently sentient—No dependants—Whether award should include sum for loss of future earnings—Whether future living expenses to be deducted from cost of future care to avoid duplication of damages or surplus over true compensation—Whether only nominal award should be made for loss of amenities—Whether allowance should be made for inflation. **Lim Poh Choo v Camden and Islington Area Health Authority** [1979] **2** 910, HL.

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Financial provision—
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DISCOVERY (cont)
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Bill of costs—Simplified procedure—RSC Ord 62, App 2 (as amended by RSC (Amendment) 1979)—Matrimonial Causes (Costs) Rules 1979 (SI 1979 No 399). **Practice Direction** [1979] **2** 150, FamD.
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Declaration of satisfaction with arrangements for children—Grant of declaration where custody of children uncontested and where contested—Form of declaration—Wife obtaining decree nisi under special procedure—Wife applying for declaration of satisfaction and for custody—Husband contesting custody but not disputing wife's affidavit as to arrangements for children—Husband not legally represented at hearing but applying for legal aid to contest custody—Likelihood of delay in deciding issue of custody because of wait for grant of legal aid and welfare report—Judge adjourning wife's application and refusing to grant declaration of satisfaction—Whether declaration should be granted to wife notwithstanding husband contesting custody—Matrimonial Causes Act 1973, s 41(1)(*a*). **A v A (children: arrangements)** [1979] **2** 493, CA.
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Jurisdiction—
Consent order—Jurisdiction to vary consent order incorporating terms agreed by spouses—Hong Kong—Whether a consent order which incorporates terms agreed by spouses a final order—Whether documents in which agreed terms set out constituting a 'maintenance agreement' capable of variation—Matrimonial Proceedings and Property Ordinance (Hong Kong), ss 4, 6 and 15. **de Lasala v de Lasala** [1979] **2** 1146, PC.
Periodical payments—
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Jurisdiction—Jurisdiction to vary order incorporating terms agreed between spouses—Order for periodical payments 'until further order'—Order containing agreement by wife to accept payments in settlement of all her claims to periodical payments and undertaking by her not to apply to increase husband's liability—Subsequent application by wife to vary periodical payments—Whether order a final order or a continuing order capable off variation or discharge—Matrimonial Causes Act 1973, s 31(1)(2)(*b*). **Jessel v Jessel** [1979] **3** 645, CA.
Jurisdiction—No jurisdiction where final order made—Desirability of finality where irretrievable breakdown of marriage—Consent order—Consent order incorporating terms agreed between spouses—Consent order containing provision for wife's maintenance until transfer of home to wife—Home transferred to wife and maintenance ceasing—Wife applying for variation of consent order—Whether jurisdiction to entertain application—Whether jurisdiction to make final order for financial provision—Whether consent order which incorporates terms agreed between spouses a final order—Matrimonial Causes Act 1973, s 23(1). **Minton v Minton** [1979] **1** 79, HL.
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Discretion to allow—Exceptional hardship or exceptional depravity—Homosexual husband—Wife discovering husband homosexual after marriage—Husband becoming impotent and losing interest in wife a few weeks after marriage and leaving her shortly afterwards—Whether effect of husband's conduct on wife amounting to exceptional hardship—Matrimonial Causes Act 1973,s 3(2). **C v C (divorce :exceptional hardship)** [1979] **1** 556, CA.
Striking out—
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Discretion of court to withhold confidential reports—Letter written by social worker to court registrar not disclosed to applicant—Disclosure not harmful to children—Court relying on letter to reach its conclusions—Whether court in breach of rules of natural justice. **B v W (wardship : appeal)** [1979] **3** 83, HL.
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Retention as material evidence in respect of charges against accused—Police finding and seizing stolen property and English and foreign currency in accused's house—Police believing currency to be used to purchase stolen property—Accused charged in respect of stolen property—No charge made in respect of currency—Currency not made an exhibit—Whether currency material evidence in respect of charges against plaintiff—Whether police entitled to retain currency as material evidence. **Malone v Comr of Police of the Metropolis** [1979] **1** 256, CA.
Retention in respect of anticipated restitution, compensation or forfeiture order—Police finding and seizing stolen property and English and foreign currency in accused's house—Accused charged in respect of stolen property—No charge made in respect of currency—Whether police entitled to retain currency in anticipation of restitution, compensation or forfeiture order being made against accused if convicted in respect of stolen property—Theft Act 1968, s 28(1)(*c*)—Powers of Criminal Courts Act 1973, ss 35, 43. **Malone v Comr of Police of the Metropolis** [1979] **1** 256, CA.
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Citizen's rights of property, privacy and confidentiality—Violation of human rights and freedoms—Police obtaining warrant from Home Secretary to tap plaintiff's telephone—Plaintiff's telephone tapped by Post Office on behalf of police—Whether telephone tapping by Post Office on behalf of police lawful—Whether plaintiff's rights of property, privacy or confidentiality breached—Whether plaintiff's human rights and freedoms violated—Post Office Act 1969, s 80—European Convention for the Protection of Human Rights and Fundamental Freedoms 1950, art 8. **Malone v Comr of Police of the Metropolis(No 2)** [1979] **2** 620, ChD.
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Inordinate delay without excuse—No steps taken by plaintiff for two years after close of pleadings—Summons to dismiss action for want of prosecution—Second action brought based on same cause of action—Summons to dismiss second action as abuse of process of court—Application of doctrine of laches—Burden of proof—Whether dismissal of first action futile in light of second action—Whether second action abuse of process of court. **Joyce v Joyce** [1979] **1** 175, ChD.
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Judgment—
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Parties—
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Action in tort—Suit by minority shareholder on behalf of itself and other shareholders—Shareholder seeking declaration of entitlement to damages for conspiracy against directors of company and seeking damages—Whether jurisdiction to entertain representative action where cause of action of each member of class a separate cause in tort for which proof of damage necessary—Whether court should exercise discretion to make representation order. **Prudential Assurance Co Ltd v Newman Industries Ltd** [1979] **3** 507, ChD.
Personal injuries action—
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Agreed reports—Reports to be lodged with proper officer after agreement or setting down for trial—RSC Ord 34, r 3. **Practice Direction** [1979] **1** 818, QBD.
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Substituted service within jurisdiction—Defendant outside jurisdiction at date of issue of writ—Defendant subsequently within the jurisdiction—Personal service of writ impracticable—Whether order for substituted service could be made—RSC Ord 65, r 4(1). **Myerson v Martin** [1979] **3** 667, CA.
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Fraudulent or negligent misrepresentation—Misrepresentation made by telephone and telex from Bahamas to England—Misrepresentation received and acted on by plaintiff in England—Whether tort committed in England—RSC Ord 11, r 1(1)(*h*). **Diamond v Bank of London & Montreal Ltd** [1979] **1** 561, CA.
Discretion to give leave for service of writ out of jurisdiction—
Good arguable case—Plaintiff giving insufficient particulars of damage suffered—Whether plaintiff had good arguable case—Whether leave for service of writ out of jurisdiction ought to be given—RSC Ord 11, r 1(1)(*h*). **Diamond v Bank of London & Montreal Ltd** [1979] **1** 561, CA.
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Address for service. *See* **Husband and wife** (Maintenance—Address—Serviceman's address for service).
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Plaintiff in civil proceedings applying for summary judgment—Application by defendant for stay of civil proceedings until conclusion of criminal proceedings—Contention that affidavit in opposition to summons for summary judgment would disclose defence to criminal charges and prejudice trial—Whether court should grant stay. **Jefferson Ltd v Bhetcha** [1979] **2** 1108,CA.
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Summons for directions adjourned from judge to master—Documents to be lodged with master's summons clerk. **Practice Direction** [1979] **1** 364, ChD.
Setting down action—
Queen's Bench Division—Setting down action for new trial—Setting down after time ordered has expired—Leave of court or consent of defendant no longer required—RSC Ord 3, r 6, Ord 34, r 2. **Practice Direction** [1979] **3** 193, QBD.
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West Indies Associated States Court of Appeal—
Binding effect of previous decisions of court—
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Testamentary documents—Fiat copies—Photographic facsimiles. **Practice Direction** [1979] **3** 859, FamD.
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Citizen's rights—
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Less favourable treatment—Barmaid instructed not to serve coloured people—Barmaid dismissed for refusing to obey instruction and making complaint to industrial tribunal—Whether barmaid discriminated against personally on racial grounds—Whether industrial tribunal had jurisdiction to hear barmaid's complaint—Race Relations Act 1976, ss 1 (1)(*a*), 30, 60(3)(*b*). **Zarczynska v Levy** [1979] **1** 814, EAT.

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Special circumstances rendering it not reasonably practicable to comply with duty—
Insolvency—Company deciding to cease trading because of insolvency—Dismissal of employees as redundant in consequence—No consultation with trade union representatives before decision made to cease trading—Company hoping to continue trading up to last minute—Whether circumstances of insolvency may amount to 'special circumstances' which render it not reasonably practicable for the employer to comply with the requirement to consult union representatives—Employment Protection Act 1975, s 99(8). **Clarks of Hove Ltd v Bakers' Union** [1979] **1** 152, CA.
Payment—
Rebate to employer—
Entitlement—Entitlement—Liability of employer to make payment arising from agreement between employer and employee—Effect on liability of Secretary of State—Whether employer's liability to make payment under the agreement a liability to pay under the statute—Whether Secretary of State liable to make rebate to employer—Redundancy Payments Act 1965, s 30(1)(*a*). **Secretary of State for Employment v Globe Elastic Thread Co Ltd** [1979] **2** 1077, HL.

REDUNDANT CHURCH
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REGISTER
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Claim by friend to remain in possession—
Friend young man who had looked after elderly female tenant for many years—Platonic relationship between tenant and friend—Tenant treated friend as her nephew—No family relationship—Friend regarded by everyone as tenant's nephew—Whether friend could succeed to tenancy as statutory tenant—Whether friend 'a member of the original tenant's family'—Rent Act 1968,Sch 1, para 3. **Carega Properties SA (formerly Joram Developments Ltd) v Sharratt** [1979] **2** 1084, HL.
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Dwelling-house let as a separate dwelling. *See* Protected tenancy—Tenancy under which a dwelling-house is let as a separate dwelling, *post*.
Possession—
House required by landlord for own use—
Claim by joint owners—House required for occupation as residence for only one owner—Whether both joint owners constituting 'the owner-occupier'—Whether necessary that house should be required as residence for both joint owners—Whether court having jurisdiction to grant possession if house required for only one joint owner—Rent Act 1968, Sch 3, Part 11, Case 10. **Tilling v Whiteman** [1979] **1** 737, HL.
Protected tenancy—
Tenancy under which a dwelling-house is let as a separate dwelling—
Premises let to educational institution—Covenant to use premises 'as private residence only in the occupation of one person per room'—Covenant to sublet only to person who is pursuing or intending to pursue course of study provided by institution—Five of institutions's students each taking a room—Each student having exclusive use of own room—Students sharing cooking and washing facilities—Whether 'dwelling-house let as a separate dwelling'—Rent Act 1977, ss 1, 8. **St Catherine's College v Dorling** [1979] **3** 250, CA.

REPAIR
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Assessment of damages. *See* **Damages** (Assessment of damages—Repairs to building).
Inherent defect—
Covenant to repair. *See* **Landlord and tenant** (Repair—Construction of covenant—Covenant 'to repair'—Covenant to repay landlord cost of repairs—Inherent defect).
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Lease. *See* **Landlord and tenant** (Repair).

REPAIR (cont)
Inherent defect—
Building—
Covenant to repair. *See* **Landlord and tenant** (Repair—Construction of covenant—Covenant 'to repair'—Covenant to repay landlord costs of repairs—Inherent defect).

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Written report. *See* **Practice** (Evidence—Expert evidence—Disclosure to other parties—Substance of evidence in form of written report).
Experts' reports—
Personal injuries action. *See* **Practice** (Personal injuries action—Experts' reports).
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Town and country planning. *See* **Town and country planning** (Development—Use classes—Repository).

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Parties. *See* **Practice** (Parties—Representative proceedings).

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Anticipatory breach. *See* **Contract** (Repudiation—Anticipatory breach).

RESERVATION
Sale of goods—
Reservation of title. *See* **Sale of goods** (Passing of property—Vendor retaining property in goods).

RESIDENTIAL PROPERTY
Trespass—
Damages. *See* **Damages** (Trespass to land—Residential property).

RESIDUE
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Will. *See* **Will** (Residue—Division).
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Secret trust—
Standard of proof. *See* **Trust and trustee** (Secret trust—Expressed orally—Standard of proof required—Gift of residue by will).

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Supplementary benefit—
Calculation of benefit. *See* **Supplementary benefit** (Calculation of benefit).

RESTAURANT
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Income tax—
Ship used as floating restaurant—Whether ship plant. *See* **Income tax** (Capital allowances—Plant—Apparatus used by taxpayer for purpose of business—Ship used as floating restaurant).

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Compulsory resumption of land. *See* **Compulsory purchase.**

RETENTION OF PROPERTY
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Provision in relation to retirement. *See* **Employment** (Discrimination against a woman—Provision in relation to retirement).
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Restriction on right not to be unfairly dismissed—
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RETRIAL
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RETROSPECTIVE LEGISLATION
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RETROSPECTIVE OPERATION
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Habeas corpus. *See* **Habeas corpus** (Return to writ).
Value added tax—
Assessment in default of proper returns by taxpayer. *See* **Value added tax** (Assessment in default of proper returns by taxpayer).
Responsibility for making return. *See* **Value added tax** (Return).

REVENUE
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Computation of profits. *See* **Income tax** (Deduction in computing profits—Capital or revenue expenditure).
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RIGHT OF COMMON
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RIGHT OF WAY
Business premises—
Occupied for business purposes—
Protected business tenancy. *See* **Landlord and tenant** (Business premises—Occupied for business purposes—Occupation—Premises—Incorporeal right—Lease granting right of way over private road for term of years for purposes connected with lessee's business).
Private right of way. *See* **Easement** (Right of way).

RIGHTS AND FREEDOMS
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Bermuda—
Construction of Constitution. *See* **Bermuda** (Constitutional law—Construction of Constitution—Protection of freedom of movement).
Violation of human rights and freedoms—
Telephone tapping—
Citizen's rights of property, privacy and confidentiality—Police powers. *See* **Police** (Powers—Telephone tapping—Citizen's rights of property, privacy and confidentiality—Violation of human rights and freedoms).

ROAD
Generally. *See* **Highway**.

ROAD TRAFFIC
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Breath test—
Accident owing to presence of motor vehicle on the road. *See* Breath test—Accident owing to presence of motor vehicle on road, *post*.
Articulated vehicle—
normally
Length exceeding 15 metres—Exception where vehicle constructed and ormally used for conveyance of indivisible loads of exceptional length—Indivisible load—Vehicle normally used to convey pre-loaded container—Container itself indivisible—Contents of container not indivisible—Whether 'load' refers to container or to contents of container—Motor Vehicles (Construction and Use) Regulations 1973 (SI 1973 No 24), regs 3(1), 9(1). **Patterson v Redpath Brothers Ltd** [1979] **2** 108, QBD.
Breath test—
Accident owing to presence of motor vehicle on road—
Accident—Untoward occurrence having adverse physical results—One event in chain of events leading to untoward occurrence a deliberate act—Car parked on slope deliberately released to roll down slope—Car suffering damage—Whether damage resulting from an 'accident'—Road Traffic Act 1972, s 8(2). **Chief Constable of West Midlands Police v Billingham** [1979] **2** 182, QBD.

ROAD TRAFFIC (cont)
Breath test (cont)—
Accident owing to presence of motor vehicle on road (cont)—
Arrest—Arrest for failure to provide specimen of breath—Validity—Constable a trespasser at time of request for specimen of breath—Statutory conditions precedent for request of specimen complied with—Whether evidence of events subsequent to time when constable became a trespasser admissible in proceedings for failure to provide specimen—Road Traffic Act 1972, s 8(2)(5). **Morris v Beardmore** [1979] 3 290, QBD.
Arrest—
Accident owing to presence of motor vehicle on road. *See* Breath test—Accident owing to presence of motor vehicle on road—Arrest, *ante*.

RULE AGAINST PERPETUITIES
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Unincorporated association—
Gift to association—
Absolute gift to members on trust for association—Bequest in will—Gift to committee of local political party—Whether bequest a gift to members of association—Whether gift imposing a trust on association—Whether gift void for perpetuity. **Re Grant's Will Trusts** [1979] 3 359, ChD.

RULE IN BAIN v FOTHERGILL
Breach of contract for sale of land—
Vendor's inability to show good title—
Limitation of damages. *See* **Sale of land** (Damages for breach of contract—Vendor's inability to show good title—Damages limited to costs of investigating title).

SAINT CHRISTOPHER, NEVIS AND ANGUILLA
Constitutional law—
Governor's powers—
State of emergency—Discretion to detain persons in time of emergency—If the Governor is satisfied—Governor having power to detain persons if satisfied that it was necessary to do so—Whether Governor's power unrestricted—Whether Governor required to be satisfied on reasonable grounds that detention of person reasonably justifiable and necessary—Consititution of Saint Christopher, Nevis and Anguilla (SI 1967 No 228, Sch 2), ss 3(6), 14, 103, 108—Leeward Islands (Emergency Powers) Order in Council 1959 (SI 1959 No 2206), s 3(1)—Emergency Powers Regulations 1967 (St Christopher, Nevis and Anguilla), reg 3(1). **Attorney-General of St Christopher, Nevis and Anguilla v Reynolds** [1979] 3 129, PC.

SALE
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Land. *See* **Sale of land.**

SALE OF GOODS
C and f contract—
Bill of lading—
Payment to be made against clean bill of lading—Bill of lading stating that goods shipped in apparent good order and condition—Bill also stating that goods subsequently discharged on account of fire damage—Bill tendered to buyers—Bill rejected by buyers on ground that it was not a clean bill of lading—Whether bill 'clean'—Whether buyers entitled to reject bill. **M Golodetz & Co Inc v Czarnikow-Rionda Co Inc** [1979] 2 726, QBD.
Passing of property—
Vendor retaining property in goods—
Equitable charge—Floating charge—Goods supplied on credit terms—Contract reserving 'equitable and beneficial ownership' in goods to vendor until full payment made—Purchaser free to use goods as he pleased in ordinary course of his business—Purchaser becoming insolvent—Whether vendor's retention of title creating a trust or merely an equitable charge—Whether charge a floating charge—Whether charge 'created by' vendor or purchaser—Whether charge void against other creditors for want of registration—Companies Act 1948, s 95(1). **Re Bond Worth Ltd** [1979] 3 919, ChD.
Goods supplied on credit terms—Contract reserving property in goods to vendor after delivery—Property reserved to vendor until full payment made for goods and all other goods supplied—Vendor supplying resin used by buyers in manufacture of chipboard—Resin becoming inseparable component of chipboard—Purchaser becoming insolvent—Whether vendor having charge on chipboard manufactured from resin or on proceeds of sale of chipboard—Whether fiduciary relationship existing between vendor and purchaser—Whether vendor entitled to trace and recover debt from proceeds of sale of chipboard—Whether any charge arising would be void—Companies Act 1948, s 95. **Borden (UK) Ltd v Scottish Timber Products Ltd** [1979] 3 961, CA.
Reservation of title. *See* Passing of property—Vendor retaining property in goods, *ante*.
Title—
Passing of property. *See* Passing of property, *ante*.

SALE OF LAND
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Damages. *See* Damages for breach of contract, *post*.
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Failure to complete purchase—
Forfeiture of deposit. *See* Deposit—Forfeiture—Purchaser's failure to complete, *post*.
Notice to complete. *See* Notice to complete, *post*.
Contract—
Breach—
Damages—Generally. *See* **Damages for breach of contract,** post.

SALE OF LAND (cont)
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Formation—
Offer and acceptance. *See* **Contract** (Offer and acceptance—Offer—Sale of land).
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Certification as independent trade union—
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Freedom from interferance of employer—Liable to interference—Association of employer's administrative staff only—Association having limited financial resorces but being provided with facilities to operate by employer—Good relationship existing between association and employer and employer recognising association as sole negotiating body for administrative staff—Whether association independent trade union—Whether 'liable to interference' from employer as a result of provision of facilities—Trade Union and Labour Relations Act 1974, s 30(1)(*b*). **Squibb United Kingdom Staff Association v Certification Officer** [1979] **2** 452, CA.

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Duty of Service to ascertain opinion of workers to whom issue relates—Whether Service has any discretion to defer making enquiries—Employment Protection Act 1975, ss 12, 14. **Engineers' and Managers' Association v Advisory, Conciliation and Arbitration Service (No 2)** [1979] 3 227, CA.
Duty of Service to improve industrial relations and encourage extension of collective bargaining—Duty of service to prepare report setting out findings and recommendations—Scope of duties—Recognition sought by small union—Opposition by larger employees' unions and by employers' federation—Report by service recommending non-recognition—Whether Service performing statutory duties properly in making report—Employment Protection Act 1975, ss 1(2), 12(4). **United Kingdom Association of Professional Engineers v Advisory, Conciliation and Arbitration Service** [1979] 2 478, CA.
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Arrest by constable who had become a trespasser—
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Damages. *See* **Damages** (Trespass to land—Residential property).

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Prosecution not disclosing to defence names of witnesses not proposed to be called at trial—Certiorari. *See* **Certiorari** (Justices—Natural justice—Prosecution not disclosing material evidence to defence—Prosecution not disclosing to defence before trial names of witnesses not proposed to be called at trial—Defendant convicted—Whether defendant denied fair trial).
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Tribunal giving incomplete or unsatisfactory definition of ordinary English word in applying statute—Value added tax tribunal basing decision on inadequate definition of word 'maintenance' in relation to assessing building works to value added tax—Whether misinterpretation an error of law—Whether appeal lying to High Court. **ACT Construction Ltd v Customs and Excise Comrs** [1979] **2** 691, QBD.
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Standard of proof required—Gift of residue by will—Residue devised by testatrix to brother absolutely—Testatrix stating that brother would divide residue 'as he thought best' and 'would know what to do'—Brother dying six days after testatrix and before making any division of residue—Whether secret trust or merely moral obligation imposed on brother—Whether residue passing to brother's beneficiary absolutely and free of any trust. **Re Snowden (deceased)** [1979] 2 172, ChD.
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Contract liable to be determined by notice—Contract for a term which is to expire on a fixed date subject to earlier determination on either party giving notice—Whether a 'contract...for a fixed term'—Trade Union and Labour Relations Act 1974, Sch 1, para 5(2) (*b*). **Dixon v British Broadcasting Corpn** [1979] 2 112, CA.
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Restriction on right where employee reaches normal retiring age or specified age—
Conjunctive or disjunctive requirement—Employee over specified age but under normal retiring age—Whether employee entitled to remedy only if under normal retiring age and under specified age—Whether employee over specified age but under normal retiring age entitled to remedy—Trade Union and Labour Relations Act 1974, Sch 1, para 10 (*b*). **Nothman v London Borough of Barnet** [1979] 1 142, HL.
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Normal retiring age—Contractual provision for retirement at certain age—Employees in practice retiring at all ages—Whether 'normal retiring age' age at which employee required by contract to retire—Trade Union and Labour Relations Act 1974, Sch 1, para 10 (*b*). **Nothman v London Borough of Barnet** [1979] 1 142, HL.

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Established use. *See* **Town and country planning** (Established use).
Town and country planning—
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Classes of use. *See* **Town and country planning** (Development—Use classes).
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VALUE ADDED TAX
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Assessment of tax for period of 21 months in a single amount—
Whether assessment required to be restricted to 'a prescribed accounting period' of three months—Whether assessment valid—Finance Act 1972, s 31. **S J Grange Ltd v Customs & Excise Comrs** [1979] **2** 91, QBD & CA.
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Assignment of lease—Trust set up to advance public education by promoting the arts of drama, ballet etc—Trust fund raised by appeals to the public not involving taxable supplies—Trustees obtaining lease of land on which to build a theatre and then assigning the lease to charitable company incorporated by them—Whether assignment of lease a supply in the course of business carried on by trustees—Finance Act 1972, s 2(2). **Customs and Excise Comrs v Royal Exchange Theatre Trust** [1979] **3** 797, QBD.
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VARIATION
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Evidence—Assessment of character by appeal court—Appeal court not having opportunity to observe parties in witness box—Duty of court in expressing its assessment of character of parties. **B vW (wardship: appeal)** [1979] **3** 83, HL.
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Circumstances in which exercisable—Factors to be considered—Juvenile court making interim care order committing child to care of local authority—Application by father for child to be made ward of court and placed in his custody—Application opposed by local authority and mother—Whether High Court should assume jurisdiction. **M v Humberside County Council** [1979] **2** 744, FamD.
Local authority—
Child in care. *See* **Child** (Care—Local authority—Wardship proceedings).
Missing ward—
Address of ward or of person with whom ward believed to be—
Disclosure by government departments at request of registrar—Particulars to be certified in request—Information to be supplied by solicitors prior to request. **Practice Direction** [1979] **2** 1106, FamD.

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Non-payment of fine—
Issue of warrant without hearing. *See* **Magistrates** (Fine—Committal to prison in default of payment—Issue of committal warrant without a hearing).
Income tax offence—
Suspected fraud. *See* **Income tax** (Offence—Fraud—Suspected offence—Warrant to enter and seize documents).

WASTE LAND
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Common land—
Registration. *See* **Commons** (Registration—Common land and rights of common—Waste land of a manor).

WATER SUPPLY
Supply of water for domestic purposes—
Duty of undertakers to provide domestic supply to new buildings—
Duty on requisition by owner of land on which buildings to be erected—Power of water authority to require owner to make contribution to cost of laying necessary mains—Necessary mains—Point from which necessary mains to start—Request by landowner for supply of water to new houses—No existing mains on site—Nearest distribution main to site too small to convey quantity of water required—Wider main capable of supplying water further away from site—Request to landowner by water authority for contribution to cost of laying new main from wider main to site—Whether proposed new main a 'necessary main'—Whether 'necessary main' must start from nearest existing main—Water Act 1945, s 37. **Royco Homes Ltd v Southern Water Authority** [1979] **3** 803, HL.
Water mains—
Necessary mains. *See* Supply of water for domestic purposes—Duty of undertakers to provide domestic supply to new buildings, *ante*.

WAY
Private right of way. *See* **Easement** (Right of way).

WEAPON
Offensive weapons. *See* **Criminal law** (Offensive weapons).

WEST INDIES ASSOCIATED STATES
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Licence to occupy premises. *See* **Licence** (Licence to occupy premises—Agricultural worker—Protection of widow's occupancy).

WIFE
Domicile. *See* **Domicile** (Husband and wife—Wife's domicile).

WILFUL DEFAULT
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Crown alleging fraud, wilful default or neglect by taxpayer. *See* **Income tax** (Appeal—Commissioners—Adjournment of appeal—Taxpayer appealing to commissioners against assessments—Crown alleging fraud, wilful default or neglect by taxpayer).

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Absolute gift—
Trust for specified purpose—Expression of purpose construed as mere indication of motive for gift—Overriding intention to benefit donee—Bequest of residue to wife on trust to be used for maintenance of wife and mother and education of daughter up to university grade—Whether absolute gift of residue to donees—Whether residue remaining when daughter's education finished passing as on intestacy—Whether if absolute gift donees taking as joint tenants or tenants in common. **Re Osoba (deceased)** [1979] **2** 393, CA.
Gift to unincorporated association—
Rule against perpetuities. *See* **Rule against perpetuities** (Unincorporated association—Gift to association).
Unincorporated association—
Rule against perpetuities. *See* **Rule against perpetuities** (Unincorporated association—Gift to association).
Residue—
Division—
Joint tenancy or tenancy in common—Bequest of residue to wife on trust to be used for her maintenance, education of daughter and maintenance of mother 'provided my wife is resident in Nigeria'—Whether proviso qualifying whole bequest—Whether proviso indicating testator's wish to sever bequest into three parts—Whether donees taking as joint tenants or tenants in common. **Re Osoba (deceased)** [1979] **2** 393, CA.
Trust for sale of residue subject to 'any members of my family and friends of mine who may wish to do so' being allowed to purchase testatrix's paintings at less than current market value—Whether 'friends' too vague to be given legal effect—Whether 'family' confined to next-of-kin or extending to all blood relatives. **Re Barlow's Will Trusts** [1979] **1** 296, ChD.
Secret trust—
Standard of proof. *See* **Trust and trustee** (Secret trust—Expressed orally—Standard of proof required—Gift of residue by will).
Secret trust. *See* **Trust and trustee** (Secret trust).
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WOMEN (cont)
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